

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

JUDGEMENT ENTERED ON MAY - 3 1991

In Re:

MEDEL MAURICE GULLEDGE,
d/b/a Buy Square, f/d/b/a
G&S Enterprises; and
JUDY HOLLEY GULLEDGE,

Debtors.

Case No. 90-30068

Chapter 13

FILED
U.S. BANKRUPTCY COURT
WESTERN DISTRICT OF NC

MAY - 3 1991

J. BARON GROSHON
BY: *[Signature]*
Deputy Clerk

**ORDER SUSTAINING TRUSTEE'S OBJECTION TO APPLICATION
FOR NON-BASE PROFESSIONAL FEES AND AWARDING FEE
CONSISTENT WITH TRUSTEE'S OBJECTION**

This Chapter 13 case is before the court on debtors' counsel's Application For Non-Base Professional Fees and the Trustee's Objection to that application to the extent it seeks payment of interest on the professional fee. The court has concluded that the Trustee's objection to interest payments should be sustained for the following reasons:

1. The Bankruptcy Code does not provide for payment of the "present value" of (or interest on) attorney's fees in Chapter 13 cases. Attorney's fees and expenses constitute priority claims pursuant to 11 U.S.C. § 507(a)(1). Section 1322(h)(2) provides for payment of such claims in full, in deferred cash payments. In contrast, § 1325(a) provides for the payment of the "present value" of allowed secured claims, but that has no application to payment of priority claims under a Chapter 13 plan.

2. Risk of non-payment and delay in payment do not justify requiring interest payments on attorney's fees in Chapter 13 cases. Chapter 13 cases are installment payment cases by their

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very nature. That certainly is true for most of the typical Chapter 13 debtor's creditors, who also endure the risk of non-payment and delay in payment. Absent specific authorization in the Bankruptcy Code for payment of interest on attorney's fees, the court is not inclined to award that enhancement.

3. Some courts have allowed interest on attorney's fees to compensate for risk of non-payment and delay in payment in other circumstances, but no case has been cited to the court where interest has been allowed in the circumstances of this case (or other similar Chapter 13 cases). To the extent that "risk of non-payment" and "delay in payment" were appropriate factors for consideration in a Johnson v. Georgia Hwy. Express type analysis in a Chapter 13 case, they would be factors for determining the "reasonable rate" and not for awarding interest on that rate as is sought here.


For the above reasons the court sustains the Trustee's objection to the award of interest on debtor's counsel's application for fees and expenses. ^G There has been no objection to the amount of fees and expenses requested -- \$1,614.45. That amount appears reasonable for the services performed and should be awarded.

It is therefore **ORDERED** that:

1. The Trustee's Objection to the debtors' attorney's Application For Non-Base Professional Fees to the extent it seeks interest payments is sustained, and debtors' attorney shall recover no interest on their professional fees and expenses; and

2. The debtors' attorneys are awarded \$1614.45 in attorney's fees and expenses as a priority claim to be paid by the Trustee pursuant to the established scheme of distribution.

This the 20th day of May, 1991.



George R. Hodges
United States Bankruptcy Judge